

FAXED

COPY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

John D. Winer, Esq. SBN: 091078
Alexis S. McKenna, Esq., SBN: 197120
WINER, McKENNA & BURRITT, LLP
1999 HARRISON, SUITE 600
OAKLAND, CALIFORNIA 94612
TEL (510) 433-1000
FAX (510) 433-1001

Kelli D. Burritt, Esq. SBN: 192397
WINER, McKENNA & BURRITT LLP
21900 BURBANK BOULEVARD, 3RD FLOOR
WOODLAND HILLS, CALIFORNIA 91367
TEL (818) 992-3151
FAX (877) 641-0824

Attorneys for Plaintiff KARISSA FENWICK

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

KARISSA FENWICK, an individual;
Plaintiff,

v.

UNIVERSITY OF SOUTHERN
CALIFORNIA; ERICK G. GUERRERO; and
DOES 1-25, inclusive,
Defendants.

Case No.: BC 680904
(Unlimited Civil Case)

COMPLAINT FOR DAMAGES AND
DEMAND FOR JURY TRIAL

1. Quid Pro Quo Sexual Harassment (Gov. Code, § 12940(j))
2. Hostile Work Environment Sexual Harassment (Gov. Code, § 12940(j))
3. Failure to Prevent and Correct Discrimination, Harassment, and Retaliation (Gov. Code, § 12940(k))
4. Retaliation (Gov. Code, § 12940(h))
5. Violation of Title IX (20 U.S.C., § 1681(a))
6. Violation of Equity in Higher Education Act (Ed. Code, § 66270);
7. Gender Violence (Civ. Code, § 52.4);
8. Sexual Harassment (Civ. Code, § 51.9);
9. Negligence;
10. Intentional Infliction of Emotional Distress;
11. Battery;

CONFORMED COPY
ORIGINAL FILED
Superior Court of California
County of Los Angeles

OCT 24 2017

Sherril R. Galton, Deputy Clerk
By: M. Soto, Deputy
Mesas Soto

1 Plaintiff KARISSA FENWICK (hereinafter sometimes referred to as "Plaintiff") for her
2 complaint against defendants UNIVERSITY OF SOUTHERN CALIFORNIA ("USC"), ERICK
3 G. GUERRERO ("GUERRERO"), and DOES 1-25, inclusive (sometimes collectively
4 "Defendants"), alleges as follows:

5 **JURISDICTION AND VENUE**

6 1. Venue is proper because the injuries and wrongful acts occurred in Los Angeles
7 County and because at least one defendant is domiciled in Los Angeles County, California.

8 2. Subject matter in this action is properly heard in this Court, as the action
9 incorporates an amount in controversy as set forth in the complaint which exceeds \$25,000.00.

10 **PARTIES**

11 3. Plaintiff is an adult female who is domiciled in Los Angeles County, California.
12 She is a graduate student at USC's Suzanne Dworak-Peck School of Social Work. She is also
13 employed by USC.

14 4. Plaintiff is informed and believes, and thereon alleges, that defendant USC is, and
15 at all times herein mentioned was, a nonprofit public benefit corporation formed and operating
16 pursuant to California's Nonprofit Public Benefit Corporation Law, which is codified at
17 Corporations Code sections 5110 – 6910. Defendant USC'S principal place of business is in Los
18 Angeles County, California. Plaintiff is further informed and believes, and thereon alleges, that,
19 at all times herein mentioned, defendant USC owned and operated the private university located
20 in Los Angeles, California, that is known to the public as The University of Southern California,
21 or "USC."

22 5. Defendant GUERRERO is an adult male who, on information and belief, is
23 domiciled in Los Angeles County, California. He is an associate professor at USC's Suzanne
24 Dworak-Peck School of Social Work.

25 6. The true names and capacities, whether individual, corporate, associate or
26 otherwise, of DOES 1-25, inclusive, are unknown to Plaintiff, who therefore sues such
27 defendants by such fictitious names. Plaintiff is informed and believes, and thereon alleges, that
28 each of the defendants designated herein as DOE is legally responsible in some manner for the

1 acts and omissions alleged herein. Plaintiff will amend this Complaint to allege the true names
2 and capacities of such defendants when they are ascertained.

3 7. Plaintiff is informed and believes, and thereon alleges, that, at all times herein
4 mentioned, each of the defendants was the agent, employee, supervisor, servant, and/or joint
5 venturer of each of the remaining defendants, and in doing the things alleged herein, was acting
6 within the course, scope, and authority of such agency, employment, and/or joint venture, and
7 with the consent and permission of each of the other defendants. Plaintiff is further informed
8 and believes, and thereon alleges, that all acts and omissions alleged herein were ratified and
9 approved by the officers, directors, and/or managing agents of each defendant

10 8. In a nutshell, Plaintiff alleges that GUERRERO sexually harassed her, sexually
11 assaulted her, and then tried to coerce her into not reporting his gross misconduct. GUERRERO
12 has a history of engaging in sexually inappropriate behavior with female students and by
13 allowing him to remain as an employee, USC has ratified his conduct and put other female
14 students at risk of being sexually harassed and sexually assaulted by him.

15 **FACTUAL ALLEGATIONS**

16 9. Plaintiff is a graduate student at USC's Suzanne Dworak-Peck School of Social
17 Work. She is also employed by USC.

18 10. Defendant USC employed defendant GUERRERO in about 2009 as a Post-
19 Doctoral Fellow in the USC Suzanne Dworak-Peck School of Social Work (the "School of
20 Social Work"). On further information and belief, defendant USC promoted defendant
21 GUERRERO in about 2010 to the position of Assistant Professor in the School of Social Work.

22 11. Plaintiff is informed and believes, and thereon alleges, that in about early 2011,
23 defendant GUERRERO began engaging in inappropriate conduct of a sexual nature with another
24 student, who shall be identified as Student X for the purposes of this lawsuit. On information and
25 belief, such conduct included, but was not limited to, the following:

- 26 a. Telling Student X that her hair looked nice;
- 27 b. Telling Student X that her outfits looked nice;
- 28 c. Telling Student X that he liked the way her perfume smelled;

1 d. Telling Student X that she did not have to worry about her weight, as she
2 had a petite build;

3 e. Calling Student X on her cellphone and inviting her to go to the opera with
4 him, his cousin, and his cousin's wife.

5 12. Plaintiff is informed and believes, and thereon alleges, that all of the
6 aforementioned conduct was unwelcome to Student X and made her feel uncomfortable, to the
7 extent that she avoided defendant GUERRERO whenever she could and, when she couldn't
8 avoid him, she was very short with him during their interactions. On information and belief, on
9 one such occasion defendant GUERRERO admonished Student X, stating in Spanish something
10 like, "You don't be like that with me; I'm your senior colleague." On information and belief,
11 this occurred in front of another student and embarrassed Student X.

12 13. Plaintiff is informed and believes, and thereon alleges, that a few days after
13 defendant GUERRERO had invited Student X to the opera, which occurred in about early 2011,
14 Student X reported defendant GUERRERO to her faculty advisor, Michalle Mor Barak, telling
15 her that defendant GUERRERO had been making inappropriate comments to her; that he had
16 been asking her out; that she thought he liked her; that she felt his conduct was inappropriate;
17 and that she felt very uncomfortable. On information and belief, Mor Barak has been employed
18 as a professor in the School Work since 1988, and has been a full professor since about 2003.

19 14. On information and belief, at all times herein mentioned there existed at USC a
20 Faculty Handbook (the "Handbook"), which, on further information and belief, was created by
21 defendant USC or, in the alternative, at its direction and with its approval. On further
22 information and belief, defendant USC represents in the Handbook that all faculty who receive a
23 complaint of discrimination, harassment, or retaliation are to report the complaint immediately to
24 the Office of Equity and Diversity (the "OED"), even if the complaint is "informal." On further
25 information and belief, defendant USC represents in the Handbook that all faculty who become
26 aware of sex-based harassment, even in the absence of a complaint, are also required to report
27 the harassment to the OED. Moreover, and on further information and belief, defendant USC
28

1 represents in the Handbook that faculty are prohibited from investigating and trying to resolve
2 any claims of discrimination, harassment, and retaliation.

3 15. Plaintiff is informed and believes, and thereon alleges, that the Handbook also
4 contains a policy against discrimination, harassment, and retaliation (the "Policy"). On further
5 information and belief, the Policy reiterates that faculty members, supervisors, Provosts, Vice
6 Provosts, Deans of schools, Vice Deans for Faculty and for Students, and any administrators of
7 the rank of Assistant Vice President and above are required to report to the OED any formal or
8 informal complaint involving policy or Title IX violations, and also to report any awareness of
9 sex-based harassment to a Title IX Coordinator, regardless of whether a complaint has been
10 made. On information and belief, defendant USC represents that the OED thereafter will
11 determine whether to investigate, and that the OED is the "Designated Investigator" under the
12 policy, though defendant USC may designate a different investigatory.

13 16. Plaintiff is further informed and believes, and thereon alleges, that the Handbook
14 further represents that students who report they have been the victim of sexual harassment
15 committed by a faculty member will receive written notification of their rights and options; will
16 receive victims-related services, such as counseling, health, mental health, victim advocacy, legal
17 assistance, and other services; and options for, and assistance in, changing academic, living,
18 transportation, and working situations.

19 17. After Student X reported to Professor Michalle Mor Barak in early 2011 that
20 defendant GUERRERO had been engaging in inappropriate conduct of a sexual nature and had
21 asked her out, Professor Mor Barak, on information and belief, asked Student X if she wanted to
22 report the matter "to senior staff" or if she wanted to speak to defendant Guerrero about the
23 matter. Student X responded that she did not want to "make a big scandal" out of the matter, but
24 reiterated that defendant GUERRERO made her uncomfortable and that she did not want to work
25 with him anymore. Professor Mor Barak also asked Student X if she wanted defendant
26 GUERRERO on her qualifying exam committee. Student X said she did not, and said again that
27 she did not want to work with him anymore. On information and belief, Professor Mor Barak
28 deliberately concealed Student X's complaint from the OED in order to protect defendant USC

1 and defendant GUERRERO. In the alternative, Professor Mor Barak reported the matter to the
2 OED, which, in turn, deliberately refused to initiate an investigation in order to avoid negative
3 publicity and to protect both defendant USC and defendant GUERRERO. As a result, and on
4 information and belief, no investigation was ever initiated, and no corrective action was taken
5 against defendant GUERRERO. Thus, defendant USC, through the inaction of Professor Mor
6 Barak and other various officials with the ability and authority to take remedial action to stop
7 defendant GUERRERO from committing sexual harassment of students, had actual knowledge
8 of, and was deliberately indifferent to sexual harassment that he was committing against female
9 students, and which permitted defendant GUERRERO to continuing engaging in such conduct
10 with the knowledge and approval of defendant USC.

11 18. Plaintiff is informed and believes, and thereon alleges, that in about January 2012,
12 Student X was at a conference in Tampa, Florida, with defendant GUERRERO and other
13 students. One evening, the group went to a salsa club. While Student X was dancing with a
14 group that did not include defendant GUERRERO, defendant GUERRERO approached her, put
15 his arm around her, and then asked her if she was dating a particular male student that was also at
16 the conference, and said something like "something intimate is happening here. Are you
17 together?" Student X told defendant GUERRERO it was none of his business. Defendant
18 GUERRERO insisted, however, that there was something happening. Student X told the male
19 student what defendant GUERRERO had said, and the male student wanted to talk to defendant
20 GUERRERO. Student X talked him out of it, however, not wanting there to be a confrontation
21 between a student and a faculty member.

22 19. On information and belief, Professor Mor Barak asked Student X in about 2013 if
23 she would be willing to work with defendant GUERRERO on a project again. Student X said no
24 and told Mor Barak that he made her feel uncomfortable.

25 20. On information and belief, Student X attended an event called "Dinner With Your
26 Professor," in which students nominated the professors they would like to have dinner with.
27 Someone nominated defendant GUERRERO, as a result of which Student X had to send him an
28 email inviting him to this dinner as she was involved in the organization planning the dinner.:

1 Student X attended the dinner with her boyfriend. During the dinner, defendant GUERRERO
2 approached Student X's boyfriend and asked why he was there. Student X's boyfriend
3 responded that Student X was his girlfriend, to which defendant GUERRERO said, "You have
4 good taste, and I'm not talking about your plate of food."

5 21. On information and belief, on another occasion, Professor Mor Barak invited
6 Student X and others to her home for dinner. Defendant GUERRERO was also present. During
7 this dinner, defendant GUERRERO stood so close to Student X that she became even more
8 uncomfortable. In fact, Student X's friend was present and commented that she was
9 uncomfortable with how close defendant GUERRERO had stood to Student X.

10 22. On information and belief, other students, were aware of defendant
11 GUERRERO'S reputation for being inappropriate.

12 23. Plaintiff completed a master's degree at the University of North Carolina in about
13 2007, then worked for several years as a clinical social worker. Thereafter, desiring to return to
14 school and obtain a Ph.D., she applied for admission and was accepted to USC. Thereafter she
15 commenced classwork in about 2012. She expected to complete coursework and her dissertation
16 in about five to six years. Plaintiff met defendant GUERRERO shortly after starting her
17 coursework at USC.

18 24. During the years Plaintiff has been a student at USC, defendant GUERRERO has
19 made some comments that have made her uncomfortable, including telling her that stairs would
20 be good for her butt. Plaintiff had also heard from other students to watch out for defendant
21 GUERRERO. But in about 2015, hoping that GUERRERO would remain professional and
22 would assist her in her educational pursuits, Plaintiff chose defendant GUERRERO as her
23 mentor and dissertation advisor because she had decided that his area of research coincided with
24 her interests, and because defendant GUERRERO was frequently published. Plaintiff was
25 published frequently, as well, due to her association with defendant GUERRERO.

26 25. On information and belief, defendant USC promoted defendant GUERRERO to
27 the position of Associate Professor sometime in 2016.

28 26. In about the Summer of 2016, defendant GUERRERO became the formal chair of

1 Plaintiff's dissertation committee.

2 27. In about November of 2016, defendant GUERRERO wanted Plaintiff to attend a
3 conference with him. Defendant USC would not pay for Plaintiff to attend, however, because
4 Plaintiff had not co-authored the paper on which defendant GUERRERO was presenting.
5 Plaintiff could not afford to pay to attend the conference, so defendant GUERRERO told
6 Plaintiff that he would pay; however, registration for the conference was already full. After
7 arriving at the conference, which was in Seattle, defendant GUERRERO called Plaintiff, said
8 that he had talked to the conference organizers about allowing Plaintiff to register, and pressured
9 Plaintiff to fly up. Plaintiff did so, paying with her own money as she was told she would get
10 reimbursed.

11 28. Upon arriving in Seattle, defendant GUERRERO took Plaintiff to lunch at a nice
12 steakhouse. During lunch, defendant GUERRERO ordered wine and talked about personal
13 matters. He said his wife was pregnant, then asked if Plaintiff was seeing anyone. Plaintiff was
14 uncomfortable with the topic.

15 29. In January 2017, Plaintiff and defendant GUERRERO traveled to New Orleans to
16 attend a large convention related to research they had worked on. They stayed in separate hotels.
17 On January 12, 2017, Plaintiff, defendant GUERRERO, and another colleague had dinner
18 together. Earlier that afternoon, defendant GUERRERO had suggested to Plaintiff that they have
19 a drink after dinner to discuss Plaintiff's networking strategy. After dinner, he suggested they
20 walk to a piano bar. While they were there, defendant GUERRERO approached Plaintiff from
21 behind, put his hands on her lower back and waist, and shoved a dollar into the front pocket of
22 her jeans. After the bar closed, Plaintiff and defendant GUERRERO walked outside, where
23 defendant GUERRERO said, "we should talk about the sexual tension between us. It would be
24 better if we could get it out in the open." He told Plaintiff that he had always thought about her
25 sexually and got very close to her. Plaintiff was confused and protested and said that she should
26 get back to her hotel. Defendant GUERRERO said no to that, and instead offered to call Uber or
27 a cab from his hotel room. Although Plaintiff was extremely uncomfortable, she reluctantly
28 walked back with defendant GUERRERO, with the plan being to talk it out and firmly put a stop

1 to the situation. Plaintiff was particularly concerned and worried, given that defendant
2 GUERRERO was the chair of her dissertation committee and essentially had the power to
3 approve or disapprove of her dissertation and, therefore, effectively prevent her from obtaining
4 her Ph.D.

5 30. Once in defendant GUERRERO'S room, Plaintiff sat in an armchair. Plaintiff
6 repeated that she needed to get back to her hotel. Defendant GUERRERO used his phone to
7 order Uber and said the car was coming. Plaintiff stood up and started to leave, but Defendant
8 GUERRERO put his hands on the sides of her arms as she walked past and guided her over to
9 his bed, where he then sat her down and quickly leaned in for a kiss. Plaintiff leaned back onto
10 the bed in order to avoid contact with defendant GUERRERO, who moved closer in response.
11 His lips actually made contact with hers, but she did not reciprocate. Instead, Plaintiff yelled out
12 in protest, stood up, pushed past him, and ran out of the room. Out on the street, Plaintiff got
13 into the vehicle, and the driver asked if she was okay because she was crying. Plaintiff
14 responded, "My boss tried to have sex with me." The driver asked if he should call the police.
15 Plaintiff said no, and he drove her back to her hotel.

16 31. Back at her hotel, Plaintiff was extremely upset and called a friend and her mother
17 and explained to her mother what had happened.

18 32. After the incident, Plaintiff avoided defendant GUERRERO as best she could and
19 did not respond to his efforts to contact her.

20 33. The next morning, January 13, 2017, Plaintiff met with Michael Hurlburt, who
21 was also attending the convention. Hurlburt was another USC Professor in the School of Social
22 Work who was also the Ph.D. Program Director. Despite being told what had happened,
23 Professor Hurlburt told Plaintiff to proceed with her presentation with defendant GUERRERO
24 the next day. On information and belief, Professor Hurlburt also called the university during his
25 meeting with Plaintiff.

26 34. On January 14, 2017, Plaintiff and defendant GUERRERO did their presentation.
27 Plaintiff was extremely uncomfortable the entire time. After the presentation, defendant
28 GUERRERO followed Plaintiff out of the room and downstairs to the hotel lobby. He insisted

1 that Plaintiff have a conversation with him in the lobby about her “plan going forward”. He
2 threatened her not to tell anyone what had occurred. In the conversation, he said, among other
3 things, “I need you to commit to not telling anyone. And if you have, you need to go back and do
4 whatever you need to do to get rid of it.” He said if she told anyone it could “ruin both of their
5 careers.” He also told her if she reported it, she would look bad. He repeatedly stated that he
6 needed her to “commit to not telling anyone.” He also told her “I would do what I need to do.
7 I’ve worked too hard to get where I am, I will take them down too.” He also said that the Dean
8 “has his back.” He further said “The Dean has invested a lot in me and would never take your
9 side or let anything happen to me.” He also said to Plaintiff that he had “invested so much in her
10 and this is what happens, you remember one bad thing.” There was also a discussion about
11 whether or not she would switch mentors and he said he would not do anything or retaliate
12 against her if they kept what happened between the two of them. Plaintiff reported these threats
13 to a friend, her mother, and also to Professor Hurlburt. She also later reported them to the OED
14 during the investigation.

15 35. On January 15, 2017, defendant GUERRERO asked Plaintiff to take notes for him
16 at a workshop. Plaintiff did so. During a roundtable discussion with participants about their
17 research, defendant GUERRERO seemed to go out of his way to praise Plaintiff’s dissertation
18 research. Plaintiff felt he did this in order to try to keep her quiet.

19 36. Plaintiff flew home later on January 15, 2017. After returning to Los Angeles,
20 she had discussions with Professor Hurlburt about her options because she felt she could no
21 longer work with defendant GUERRERO.

22 37. Later in the week after they had returned, defendant GUERRERO emailed
23 Plaintiff about their shared research projects and also left her a voicemail to ask her if she was
24 going to be working on these projects.

25 38. Plaintiff did not attend a team building event at a bowling alley, stating she was
26 sick and could not go. This was so she could avoid seeing defendant GUERRERO.

27 39. On or about January 19, 2017, Plaintiff reported defendant GUERRERO to the
28 OED and met with an investigator named Donna Wagner. On information and belief, an

1 investigation was commenced, but did not conclude until nearly four months later in May 2017.
2 On information and belief, defendant GUERRERO initially refused to be interviewed, then was
3 forced to do so by the Dean of the School of Social Work, after which he denied the allegations
4 and made false assertions about Plaintiff.

5 40. The OED investigator, Donna Wagner, emailed a letter to Plaintiff on May 11,
6 2017, in which she informed Plaintiff that her allegations of an unwelcome sexual advance by
7 defendant GUERRERO on January 12, 2017, had been substantiated, as had her further
8 allegation that defendant GUERRERO had dissuaded her from reporting the matter on January
9 14, 2017. Wagner advised that the matter was being referred to Karen Nutter, Interim Director
10 of the OED, "for determination as to whether or not these findings rise to the level of a policy
11 violation."

12 41. On information and belief, defendant GUERRERO submitted additional alleged
13 evidence and witnesses after May 11, 2017, to Donna Wagner, causing Wagner to reopen the
14 investigation.

15 42. Wagner notified Plaintiff of her findings in a letter attached to a July 13, 2017,
16 email. In her letter, Wagner set forth defendant GUERRERO'S various claims against Plaintiff,
17 none of which were substantiated by Wagner. Further, according to Wagner's letter to Plaintiff,
18 GUERRERO actually alleged that "there was a "sexualized" environment at the school towards
19 him and that students referred to him as the "hot Latino professor." Wagner indicated that the
20 witnesses provided by Guerrero to support his claims did not do so and that at least one of the
21 pieces of evidence he provided was actually contradictory to his statement. Wagner also
22 indicated in the letter that the additional evidence and witnesses provided by GUERRERO were
23 insufficient to cause her to alter her original conclusion that GUERRERO made a sexual advance
24 towards Plaintiff and dissuaded Plaintiff from reporting the incident. Again, Wagner indicated
25 that the matter was being referred to Karen Nutter for a decision on whether defendant
26 GUERRERO'S conduct constituted a violation of university policy.

27 43. In a memorandum to Plaintiff dated August 1, 2017, Nutter indicated that she
28 concurred with Wagner's findings and that the findings constituted a violation of Faculty

1 Handbook Section 6-B(4), “in that, as your dissertation advisor, Dr. Guerrero held considerable
2 influence over your academic career, and submission to his unwelcome advance was an implicit
3 condition of your academic evaluation.”

4 44. On information and belief, defendant GUERRERO appealed the findings of the
5 investigation. On August 29, 2017, a letter was sent to GUERRERO indicating that the appeal
6 was denied. The letter said his appeal had not shown that the investigator’s findings and
7 conclusions should be reversed.

8 45. On September 7, 2017, a letter was sent to GUERRERO by Martin Levine, Vice
9 Provost and Senior Advisor to the Provost, stating that the Provost’s delegate considered his
10 appeal and affirmed the findings and conclusions of the OED that he violated university policies.
11 However, GUERRERO was not fired. He received much lesser discipline and will still be
12 allowed to teach and interact with female students.

13 46. GUERRERO has since filed a grievance with the USC Faculty Tenure &
14 Privileges Appeals Committee. He has not accepted any responsibility for his conduct, yet he
15 will remain as an employee at USC. The corrective actions taken were minimal and not
16 reasonable under the circumstances. Consequently, defendant USC has ratified defendant
17 GUERRERO’S conduct, which amounts to deliberate indifference.

18 47. Plaintiff was previously very active in the School of Social Work, but now no
19 longer attends school or program events due to fear of seeing defendant GUERRERO and being
20 questioned about the investigation by other students and faculty. She is also afraid of attending
21 future professional conferences where defendant GUERRERO is present, and has already lost
22 the opportunity to co-present a paper she co-authored with defendant GUERRERO at a
23 conference in August 2017 due to being unable to be around him. Her progress on her
24 dissertation, which was partially written, has been impeded because it was based on research she
25 conducted with defendant GUERRERO and she can no longer work with him. Additionally, she
26 was not able to submit a planned dissertation research grant to the National Institute of Drug
27 Abuse in February 2017 because defendant GUERRERO was to be her faculty sponsor.
28 Although Plaintiff now has a new dissertation chair and works with other faculty members,

1 defendant GUERRERO'S expertise was most closely aligned with her dissertation topic.
2 Further, since Plaintiff's dissertation proposal was so strongly associated with defendant
3 GUERRERO, working on her dissertation triggers distressing memories of GUERRERO'S
4 sexual misconduct and subsequent threats, hindering Plaintiff's ability to concentrate. Her
5 preferred alternative would be to change dissertation topics, but this would cost her years of
6 work and money. Instead, Plaintiff is attempting to complete her dissertation under the guidance
7 of a new dissertation committee using a smaller scale study than originally planned, but it has
8 been very difficult for her to continue. Thus, Plaintiff believes completion of her Ph.D. has been
9 jeopardized, as have her chances of a career in academia afterward given that the majority of her
10 previous connections and job leads were obtained through defendant GUERRERO.

11 **FIRST CAUSE OF ACTION**

12 **(Against All Defendants for Quid Pro Quo Environment**

13 **Harassment in Violation of Government Code Section 12940(j))**

14 48. Plaintiff incorporates by this reference all the other allegations of this Complaint,
15 except those that are inconsistent with a cause of action for quid pro quo sexual harassment.

16 49. At all times herein mentioned, Government Code section 12940(j) was in full
17 force and effect, was binding on Defendants, and required them to refrain from subjecting
18 Plaintiff to unwanted harassing conduct because of her sex.

19 50. At all times herein mentioned, Plaintiff was employed by defendant USC and
20 defendant GUERRERO as a research assistant and was paid by both.

21 51. Defendant GUERRERO made unwanted sexual advances and engaged in other
22 unwanted verbal and physical conduct of a sexual nature, as set forth above and incorporated
23 herein.

24 52. The terms of Plaintiff's employment, her job benefits, and/or her favorable
25 working conditions were made contingent, by words and/or conduct, on Plaintiff's acceptance of
26 defendant GUERRERO'S sexual advances and conduct.

27 53. At all times herein mentioned, defendant GUERRERO was a supervisor as that
28 term is defined in Government Code section 12926(t).

1 54. Plaintiff was harmed as set forth above and incorporated herein.

2 55. Defendant GUERRERO is personally liable for his own acts of harassment,
3 pursuant to Government Code section 12940(j)(3). Defendants USC and DOES 1 to 25 are
4 strictly liable for defendant GUERRERO'S acts of harassment because, at all times herein
5 mentioned, GUERRERO was a supervisor, as that term is defined in Government Code section
6 12926(t). In the alternative, even if GUERRERO was not a supervisor, defendants USC and
7 DOES 1 to 25 are liable for his acts of harassment because they knew, or should have known,
8 about them and failed to take immediate and appropriate corrective action.

9 56. As a direct and proximate result of the sexual harassment of Plaintiff described
10 above, Plaintiff has suffered, and continues to suffer, special damages, in an amount according to
11 proof at the time of trial.

12 57. As a direct and proximate result of the unlawful conduct of Defendants, and each
13 of them, Plaintiff has suffered, and continues to suffer, general damages, including, but not
14 limited to, shock, embarrassment, humiliation, mental anguish, anger, emotional and physical
15 distress, stress, and other damages to be proven at the time of trial.

16 58. Defendant GUERRERO committed the acts herein alleged maliciously,
17 fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an
18 improper and evil motive amounting to malice, and in conscious disregard of the rights of
19 Plaintiff. Plaintiff is informed and believes, and thereon alleges, that defendants USC and DOES
20 1 to 25 knew of the probable injurious consequences of GUERRERO'S continued employment
21 (harassment of female employees and tenants), but deliberately failed to avoid these
22 consequences by deliberately choosing to continue GUERRERO'S employment, and by
23 deliberately failing to restrain him, despite ample notice, from engaging in unlawful,
24 discriminatory sexual harassment. Plaintiff is informed and believes, and thereon alleges, that
25 such conduct was also authorized, approved of, and/or ratified by an owner, officer, director, or
26 managing agent of defendants USC and DOES 1 to 25. Plaintiff consequently seeks an award of
27 punitive and exemplary damages against Defendants, and each of them, in an amount according
28 to proof.

1 DOES 1 to 25 are liable for his acts of harassment because they knew, or should have known,
2 about them and failed to take immediate and appropriate corrective action.

3 65. As a direct and proximate result of the sexual harassment of Plaintiff described
4 above, Plaintiff has suffered, and continues to suffer, special damages, in an amount according to
5 proof at the time of trial.

6 66. As a direct and proximate result of the unlawful conduct of Defendants, and each
7 of them, Plaintiff has suffered, and continues to suffer, general damages, including, but not
8 limited to, shock, embarrassment, humiliation, mental anguish, anger, emotional and physical
9 distress, stress, and other damages to be proven at the time of trial.

10 67. Defendant GUERRERO committed the acts herein alleged maliciously,
11 fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an
12 improper and evil motive amounting to malice, and in conscious disregard of the rights of
13 Plaintiff. Plaintiff is informed and believes, and thereon alleges, that defendants USC and DOES
14 1 to 25 knew of the probable injurious consequences of GUERRERO'S continued employment
15 (harassment of female employees and tenants), but deliberately failed to avoid these
16 consequences by deliberately choosing to continue GUERRERO'S employment, and by
17 deliberately failing to restrain him, despite ample notice, from engaging in unlawful,
18 discriminatory sexual harassment. Plaintiff is informed and believes, and thereon alleges, that
19 such conduct was also authorized, approved of, and/or ratified by an owner, officer, director, or
20 managing agent of defendants USC and DOES 1 to 25. Plaintiff consequently seeks an award of
21 punitive and exemplary damages against Defendants, and each of them, in an amount according
22 to proof.

23 68. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of
24 an attorney, and has incurred, and will continue to incur, costs, including attorney fees, to
25 enforce her statutory and constitutional rights to be free from harassment in the workplace.
26 Plaintiff is, therefore, entitled to an award of attorney fees and costs pursuant to Government
27 Code section 12965(b), in an amount according to proof.

28

1 engaging in retaliatory conduct, as set forth above; and other, yet-to-be-identified failures to take
2 reasonable steps to prevent and correct discrimination, harassment, and retaliation.

3 73. As a direct and proximate result of Defendants' failure to take all reasonable steps
4 necessary to prevent discrimination, harassment, from occurring, Plaintiff was subjected to
5 unwelcome conduct of a sexual nature by defendant GUERRERO, as set forth above. Said
6 conduct was severe, or pervasive, or both, and created an oppressive, hostile, intimidating, and/or
7 offensive work environment for Plaintiff. A reasonable person in Plaintiff's position would also
8 have considered the environment to be hostile and/or abusive. She has also been subjected to
9 retaliation, as set forth more fully above.

10 74. As a direct and proximate result of the sexual harassment of Plaintiff described
11 above, Plaintiff has suffered, and continues to suffer, special damages, in an amount according to
12 proof at the time of trial.

13 75. As a direct and proximate result of the unlawful conduct of Defendants, and each
14 of them, Plaintiff has suffered, and continues to suffer, general damages, including, but not
15 limited to, shock, embarrassment, humiliation, mental anguish, anger, emotional and physical
16 distress, stress, and other damages to be proven at the time of trial.

17 76. Defendant GUERRERO committed the acts herein alleged maliciously,
18 fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an
19 improper and evil motive amounting to malice, and in conscious disregard of the rights of
20 Plaintiff. Plaintiff is informed and believes, and thereon alleges, that defendants USC and DOES
21 1 to 25 knew of the probable injurious consequences of GUERRERO'S continued employment
22 (harassment of female employees and tenants), but deliberately failed to avoid these
23 consequences by deliberately choosing to continue GUERRERO'S employment, and by
24 deliberately failing to restrain him, despite ample notice, from engaging in unlawful,
25 discriminatory sexual harassment. Plaintiff is informed and believes, and thereon alleges, that
26 such conduct was also authorized, approved of, and/or ratified by an owner, officer, director, or
27 managing agent of defendants USC and DOES 1 to 25. Plaintiff consequently seeks an award of
28

1 punitive and exemplary damages against Defendants, and each of them, in an amount according
2 to proof.

3 77. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of
4 an attorney, and has incurred, and will continue to incur, costs, including attorney fees, to
5 enforce her statutory and constitutional rights to be free from harassment in the workplace.
6 Plaintiff is, therefore, entitled to an award of attorney fees and costs pursuant to Government
7 Code section 12965(b), in an amount according to proof.

8 78. Within the time required by law, Plaintiff filed a Complaint of Discrimination
9 with the Department of Fair Employment & Housing and obtained an immediate Notice of Case
10 Closure. Plaintiff has, therefore, exhausted her administrative remedies before the filing of this
11 lawsuit.

12 WHEREFORE Plaintiff prays for judgment as set forth below;

13 **FOURTH CAUSE OF ACTION**

14 **(Against All Defendants, Except GUERRERO, For Retaliation**

15 **in Violation of Government Code Section 12940(h))**

16 79. Plaintiff incorporates herein the allegations set forth in the other paragraphs of
17 this Complaint, except for those that are inconsistent with a cause of action for retaliation.

18 80. At all times herein mentioned, Government Code section 12940(h) was in full
19 force and effect, was binding on Defendants, and required them to refrain from retaliating against
20 their employees for, among other things, opposing any practices forbidden by the Fair
21 Employment and Housing Act, including, but not limited to, unwanted harassment based on sex
22 and retaliation.

23 81. After Plaintiff opposed defendant GUERRERO'S harassment of her, and after
24 Plaintiff made a formal complaint, defendants USC and DOES 1 to 25 failed to conduct a
25 prompt, appropriate investigation of Plaintiff's allegations and, on information and belief, took
26 no interim corrective action. Further, even after the investigation was concluded, Defendants
27 failed to remove defendant GUERRERO from the workplace. The retaliatory acts and omissions
28 amounted to conduct that, taken as a whole, have materially and adversely affected the terms and

1 conditions of Plaintiff's employment. Plaintiff is informed and believes, and thereon alleges,
2 that Defendants, and each of them, have performed additional retaliatory acts of which Plaintiff
3 is not yet aware, but which have contributed to and aggravated the working conditions.

4 82. As a direct and proximate result of Defendants' retaliatory acts and omissions,
5 Plaintiff was subjected to further sexual harassment from defendant GUERRERO, as set forth
6 above, that was unwelcome to Plaintiff and which was severe, or pervasive, or both, and which
7 created an oppressive, hostile, intimidating, and/or offensive work environment for Plaintiff. A
8 reasonable person in Plaintiff's position would also have considered the environment to be
9 hostile and/or abusive.

10 83. As a direct and proximate result of the sexual harassment of Plaintiff described
11 above, Plaintiff has suffered, and continues to suffer, special damages, in an amount according to
12 proof at the time of trial.

13 84. As a direct and proximate result of the unlawful conduct of Defendants, and each
14 of them, Plaintiff has suffered, and continues to suffer, general damages, including, but not
15 limited to, shock, embarrassment, humiliation, mental anguish, anger, emotional and physical
16 distress, stress, and other damages to be proven at the time of trial.

17 85. Defendant GUERRERO committed the acts herein alleged maliciously,
18 fraudulently, and oppressively, with the wrongful intention of injuring Plaintiff, from an
19 improper and evil motive amounting to malice, and in conscious disregard of the rights of
20 Plaintiff. Plaintiff is informed and believes, and thereon alleges, that defendants USC and DOES
21 1 to 25 knew of the probable injurious consequences of GUERRERO'S continued employment
22 (harassment of female employees and tenants), but deliberately failed to avoid these
23 consequences by deliberately choosing to continue GUERRERO'S employment, and by
24 deliberately failing to restrain him, despite ample notice, from engaging in unlawful,
25 discriminatory sexual harassment. Plaintiff is informed and believes, and thereon alleges, that
26 such conduct was also authorized, approved of, and/or ratified by an owner, officer, director, or
27 managing agent of defendants USC and DOES 1 to 25. Plaintiff consequently seeks an award of
28

1 punitive and exemplary damages against Defendants, and each of them, in an amount according
2 to proof.

3 86. As a direct cause of the acts alleged above, Plaintiff has had to hire the services of
4 an attorney, and has incurred, and will continue to incur, costs, including attorney fees, to
5 enforce her statutory and constitutional rights to be free from harassment in the workplace.
6 Plaintiff is, therefore, entitled to an award of attorney fees and costs pursuant to Government
7 Code section 12965(b), in an amount according to proof.

8 WHEREFORE Plaintiff prays for judgment as set forth below;

9 **FIFTH CAUSE OF ACTION**
10 **(Against Defendants USC and DOES 1-25 for Violation of Title IX [20 U.S.C., § 1681(a)])**

11 87. Plaintiff incorporates by this reference all the other allegations of this Complaint,
12 except those that are inconsistent with a cause of action for violation of Title 20, Section 1681,
13 subpart (a).

14 88. At all times herein mentioned, Title IX of the Education Amendments of 1972,
15 codified at Title 20, Sections 1681 – 1688, of the United States Code, was in full force and effect
16 and provided, in Title 20, Section 1681, subpart (a), as follows: “No person in the United States
17 shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be
18 subjected to discrimination under any education program or activity receiving Federal financial
19 assistance[.]”

20 89. Plaintiff is informed and believes, and thereon alleges, that, at all times herein
21 mentioned, defendant USC received, and continues to receive, Federal financial assistance.

22 90. USC, through the inaction of various officials and employees with the ability and
23 authority to take remedial action to stop the sexual harassment, sexual assault, and sexual
24 discrimination of Plaintiff, had knowledge of, and were deliberately indifferent to sexual
25 harassment that was so severe, pervasive and objectively offensive that it deprived Plaintiff of
26 access to the educational benefits or opportunities provide by USC, in violation of Title IX.

27 91. As of years ago when Student X reported the sexual misconduct by Guerrero, if
28 not sooner, USC had knowledge of, and was deliberately indifferent to, reports and/or a

1 substantial risk of severe and pervasive sexual harassment presented by defendant GUERRERO
2 to female students at USC.

3 92. As a direct and proximate result of USC'S deliberate indifference to knowledge of
4 and notice of a substantial risk of further sexual harassment and sexual assault, Plaintiff was
5 subjected to sexual harassment and a sexual assault by Defendant GUERRERO.

6 93. USC'S failure to take any action to prevent or redress reports of GUERRERO'S
7 conduct toward female students or to address the severe and pervasive sexual harassment, despite
8 its authority to do so, was clearly unreasonable in light of known circumstances.

9 94. As a result of USC'S misconduct, Plaintiff suffered significant, severe, and
10 ongoing emotional distress and mental anguish.

11 95. Plaintiff was subjected to sexual harassment, sexual assault, and sexual
12 discrimination that was so severe, pervasive and objectively offensive that she was denied access
13 to educational opportunities and benefits.

14 96. Further, GUERRERO has not accepted any responsibility for his conduct, yet he
15 will remain as an employee at USC. The corrective actions taken by USC were minimal and not
16 reasonable under the circumstances. Consequently, defendant USC has ratified defendant
17 GUERRERO'S conduct, which amounts to deliberate indifference.

18 97. As a result of the improper discrimination set forth above, Plaintiff has been
19 excluded from participation in, denied the benefits of, and subjected to discrimination in
20 violation of 20 U.S.C., § 1681(a). Plaintiff was previously very active in the School of Social
21 Work, but now no longer attends school or program events due to fear of seeing defendant
22 GUERRERO and being questioned about the investigation by other students and faculty. She is
23 also afraid of attending future professional conferences where defendant GUERRERO is present,
24 and has already lost the opportunity to co-present a paper she co-authored with defendant
25 GUERRERO at a conference in August 2017 due to being unable to be around him. Her progress
26 on her dissertation, which was partially written, has been impeded because it was based on
27 research she conducted with defendant GUERRERO and she can no longer work with him.
28 Additionally, she was not able to submit a planned dissertation research grant to the National

1 Institute of Drug Abuse in February 2017 because defendant GUERRERO was to be her faculty
2 sponsor. Although Plaintiff now has a new dissertation chair and works with other faculty
3 members, defendant GUERRERO'S expertise was most closely aligned with her dissertation
4 topic. Further, since Plaintiff's dissertation proposal was so strongly associated with defendant
5 GUERRERO, working on her dissertation triggers distressing memories of GUERRERO'S
6 sexual misconduct and subsequent threats, hindering Plaintiff's ability to concentrate. Her
7 preferred alternative would be to change dissertation topics, but this would cost her years of
8 work and money. Instead, Plaintiff is attempting to complete her dissertation under the guidance
9 of a new dissertation committee using a smaller scale study than originally planned, but it has
10 been very difficult for her to continue. Thus, Plaintiff believes completion of her Ph.D. has been
11 jeopardized, as have her chances of a career in academia afterward given that the majority of her
12 previous connections and job leads were obtained through defendant GUERRERO.

13 98. As a result of the improper discrimination set forth above, Plaintiff has also
14 suffered special damages in an amount according to proof at trial.

15 99. As a result of the improper discrimination set forth above, Plaintiff has also
16 suffered general damages, including, but not limited to, shock, embarrassment, humiliation,
17 emotional distress, and other damages to be proven at the time of trial

18 100. As a direct and proximate result of the unlawful conduct of Defendants, Plaintiff
19 was harmed and suffered, and continues to suffer, special damages including, but not limited to,
20 losses of earning capacity, opportunities for employment advancement and work experience, and
21 other damages to be proven at the time of trial.

22 101. As a direct and proximate result of the unlawful conduct of Defendants, and each
23 of them, Plaintiff was harmed and suffered, and continues to suffer, general damages including
24 but not limited to shock, embarrassment, humiliation, emotional distress, and other damages to
25 be proven at the time of trial.

26 102. The conduct of Defendants, and each of them, was a substantial factor in causing
27 Plaintiff's harm.

28

1 in Higher Education action through a civil action pursuant to Education Code Section 66292.4.

2 109. As a result of the improper discrimination set forth above, Plaintiff has also
3 suffered special damages in an amount according to proof at trial.

4 110. As a result of the improper discrimination set forth above, Plaintiff has also
5 suffered general damages, including, but not limited to, shock, embarrassment, humiliation,
6 emotional distress, and other damages to be proven at the time of trial

7 WHEREFORE Plaintiff prays for judgment as set forth below.

8 **SEVENTH CAUSE OF ACTION**

9 **(Against All Defendants for Gender Violence [Civ. Code, § 52.4])**

10 111. Plaintiff incorporates by this reference all the other allegations of this Complaint,
11 except those that are inconsistent with a cause of action for gender violence in violation of Civil
12 Code Section 52.4.

13 112. At all times herein mentioned, California Civil Code Section 52.4 was in full
14 force and effect, and authorized any person subjected to gender violence to bring a civil action
15 for damages against any responsible party.

16 113. Plaintiff was subjected to gender violence as that term is defined in Civil Code
17 Section 52.4(c).

18 114. Defendants were responsible parties for the reasons set forth above and
19 incorporated herein.

20 115. As a result of the gender violence perpetrated on Plaintiff, Plaintiff has suffered
21 special damages in an amount according to proof at trial.

22 116. As a result of the gender violence perpetrated on Plaintiff, Plaintiff has also
23 suffered general damages, including, but not limited to, shock, embarrassment, humiliation,
24 emotional distress, and other damages to be proven at the time of trial.

25 117. Plaintiff seeks all remedies provided for in Civil Code Section 52.4(a), including
26 actual damages, compensatory damages, punitive damages, injunctive relief, costs, attorney fees,
27 and other relief that the Court deems necessary.

28 WHEREFORE Plaintiff prays for judgment as set forth below.

1 **EIGHTH CAUSE OF ACTION**

2 **(Against All Defendants for Sexual Harassment [Civ. Code, § 51.9])**

3 118. Plaintiff incorporates by this reference all the other allegations of this Complaint,
4 except those that are inconsistent with a cause of action for sexual harassment in violation of
5 Civil Code Section 51.9.

6 119. At all times herein mentioned, California Civil Code Section 51.9 was in full
7 force and effect, and prohibited sexual harassment in certain business, service, and professional
8 relationship, including that of teacher-student or a relationship that is substantially similar to that
9 of teacher-student. The relationship between defendant GUERRERO and Plaintiff was
10 substantially similar to that of teacher-student, given that he was a professor who supervised the
11 work of Plaintiff, including her dissertation, and Plaintiff was his student.

12 120. Defendant GUERRERO made sexual advances, solicitations, sexual requests,
13 demands for sexual compliance by Plaintiff, or engaged in other verbal, visual, or physical
14 conduct of a sexual nature or of a hostile nature based on gender, that were unwelcome and
15 pervasive or severe, as set forth above. Plaintiff is informed and believes, and thereon alleges,
16 that defendant USC knew or should have known of the conduct of defendant GUERRERO and
17 thereafter authorized, approved of, and/or ratified said conduct, as set forth above.

18 121. Plaintiff was unable to easily terminate her business, service, and/or professional
19 relationship with Defendants.

20 122. As a result of the sexual harassment perpetrated on Plaintiff by defendant
21 GUERRERO, and authorized, approved of, and/or ratified by defendant USC, Plaintiff has
22 suffered special damages in an amount according to proof at trial.

23 123. As a result of the sexual harassment perpetrated on Plaintiff by defendant
24 GUERRERO, and authorized, approved of, and/or ratified by defendant USC, Plaintiff has also
25 suffered general damages, including, but not limited to, shock, embarrassment, humiliation,
26 emotional distress, and other damages to be proven at the time of trial.

27 124. Plaintiff seeks all remedies provided for in Civil Code Section 52(b), including
28 actual damages, compensatory damages, punitive damages, injunctive relief, costs, attorney fees,

1 and other relief that the Court deems necessary.

2 WHEREFORE Plaintiff prays for judgment as set forth below.

3 **NINTH CAUSE OF ACTION**

4 **(Against All Defendants for Negligence)**

5 125. Plaintiff incorporates by this reference all the other allegations of this Complaint,
6 except those that are inconsistent with a cause of action for negligence.

7 126. Defendants owed a legal duty to use reasonable care to prevent harm to their
8 students.

9 127. Defendant USC breached its duty to Plaintiff by, among other things, negligently
10 failing to provide defendant GUERRERO and other faculty with proper training in the
11 prevention of sexual harassment and retaliation, including training that reporting suspected
12 sexual harassment and retaliation was mandatory; by negligently failing to provide faculty with
13 proper training on how to report suspected sexual harassment and retaliation; by negligently
14 failing to provide appropriate training to personnel on how to promptly and properly investigate
15 allegations of suspected sexual harassment and retaliation, and/or by negligently failing to hire
16 such individuals as already had experience in doing so; by negligently failing to provide proper
17 training on how to analyze evidence gathered in order to reach an appropriate conclusion, and/or
18 by negligently failing to hire such individuals as already had experience in doing so; by
19 negligently supervising defendant GUERRERO; by negligently retaining defendant
20 GUERRERO after learning that he had been engaging in inappropriate conduct of a sexual
21 nature with students who interacted with him and/or were under his supervision, including
22 Student X, and/or by negligently retaining him after it should have known of such conduct; by
23 negligently failing to warn its students about the conduct of defendant GUERRERO and
24 permitting him to continue interacting with students; by negligently permitting female students to
25 travel to off-campus and out-of-town events with defendant GUERRERO; among other things
26 set forth above and incorporated herein by this reference. The aforementioned acts and
27 omissions created a particular risk of harm to defendant USC'S students, specifically, that
28 defendant GUERRERO would subject them to unwanted conduct of a sexual nature and its

1 resulting consequences, all of which was reasonably foreseeable, especially in an academic
2 environment.

3 128. Defendant GUERRERO breached his duty to Plaintiff by, among other things,
4 subjecting Plaintiff to unwanted conduct of a sexual nature as set forth above.

5 129. Defendants' acts and omissions were a substantial factor in causing harm to
6 Plaintiff.

7 130. As a result of the gender violence perpetrated on Plaintiff, Plaintiff has suffered
8 special damages in an amount according to proof at trial.

9 131. As a result of the gender violence perpetrated on Plaintiff, Plaintiff has also
10 suffered general damages, including, but not limited to, shock, embarrassment, humiliation,
11 emotional distress, and other damages to be proven at the time of trial.

12 WHEREFORE Plaintiff prays for judgment as set forth below.

13 **TENTH CAUSE OF ACTION**

14 **(Against All Defendants for Intentional Infliction of Emotional Distress)**

15 132. Plaintiff incorporates by this reference all the other allegations of this Complaint,
16 except those that are inconsistent with a cause of action for intentional infliction of emotional
17 distress.

18 133. Defendant GUERRERO'S conduct, as set forth above, was extreme and
19 outrageous because it amounted to sexual harassment of a student and threatened retaliation if
20 she reported it, but also because he abused a position of authority over Plaintiff in that he was her
21 dissertation supervisor and the chair of her dissertation committee, which gave him apparent and
22 real power to affect Plaintiff's academic interests. Further, Plaintiff, as a doctoral student who
23 had completed substantial coursework and work on her dissertation, was particularly vulnerable
24 to emotional distress under such circumstances.

25 134. Defendant GUERRERO acted intending to cause Plaintiff severe emotional
26 distress, or with reckless disregard of the probability that Plaintiff would suffer severe emotional
27 distress.

28 135. Plaintiff suffered severe emotional distress.

1 136. The acts of Defendants alleged above were done maliciously, oppressively, and/or
2 fraudulently. On information and belief, Defendants had advance knowledge of the unfitness of
3 GUERRERO, and employed him, and/or retained him in employment, with conscious disregard
4 of the rights or safety of Plaintiff and others. Accordingly, Plaintiff seeks an award of punitive
5 and exemplary damages in an amount according to proof. Plaintiff is informed and believes, and
6 thereon alleges, that defendant USC authorized, approved of, and/or ratified defendant
7 GUERRERO'S conduct, and is, therefore, liable for his conduct as though defendant USC had
8 itself committed it.

9 137. Defendants' conduct was a substantial factor in causing Plaintiff's severe
10 emotional distress.

11 WHEREFORE Plaintiff prays for judgment as set forth below;

12 **ELEVENTH CAUSE OF ACTION**

13 **(Against All Defendants for Battery)**

14 138. Plaintiff incorporates by this reference all the other allegations of this Complaint,
15 except those that are inconsistent with a cause of action for battery.

16 139. Defendant GUERRERO intentionally put his hands on the sides of Plaintiff's
17 arms to prevent her from leaving his hotel room, guided her over to his bed and pushed her
18 down, then attempted to kiss her.

19 140. Plaintiff did not expressly or impliedly consent to be touched at any time in any
20 manner by defendant GUERRERO. But even if Plaintiff consented to defendant GUERRERO'S
21 conduct, which she did not, such consent was obtained under duress and was, therefore, vitiated
22 because defendant GUERRERO abused a position of authority over Plaintiff in that he was her
23 dissertation supervisor and the chair of her dissertation committee, which gave him apparent and
24 real power to affect Plaintiff's academic interests. Further, Plaintiff, as a doctoral student who
25 had completed substantial coursework and work on her dissertation, was particularly vulnerable
26 to emotional distress under such circumstances.

27 141. Plaintiff was harmed by defendant GUERRERO'S conduct.
28

1 142. A reasonable person in Plaintiff's situation would have been harmed and offended
2 by defendant GUERRERO'S conduct.

3 143. The acts of Defendants alleged above were done maliciously, oppressively, and/or
4 fraudulently. On information and belief, Defendants had advance knowledge of the unfitness of
5 GUERRERO, and employed him, and/or retained him in employment, with conscious disregard
6 of the rights or safety of Plaintiff and others. Accordingly, Plaintiff seeks an award of punitive
7 and exemplary damages in an amount according to proof. Plaintiff is informed and believes, and
8 thereon alleges, that defendant USC authorized, approved of, and/or ratified defendant
9 GUERRERO'S conduct, and is, therefore, liable for his conduct as though defendant USC had
10 itself committed it.

11 144. Defendants' conduct was a substantial factor in causing Plaintiff's harm.

12 WHEREFORE Plaintiff prays for judgment as set forth below;

13 **PRAYER FOR RELIEF**

14 WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as
15 follows:

- 16 1. For special damages, according to proof at the time of trial.
- 17 2. For general damages, according to proof at the time of trial;
- 18 3. For punitive damages, pursuant to Civil Code section 3294;
- 19 4. For attorney fees, as allowed by law, under, but not limited to, Government Code
20 section 12965(b); Civil Code, sections 51.9(b), 52(b)(3), 52.4(a), and 1021.5; and 42 U.S.C., §
21 1988(b);
- 22 5. For pre- and post-judgment interest, pursuant Civil Code section 3289;
- 23 6. For costs of suit incurred herein;
- 24 7. For such other and further relief as the Court deems just and proper.

25 ///

26 ///

27 ///

28

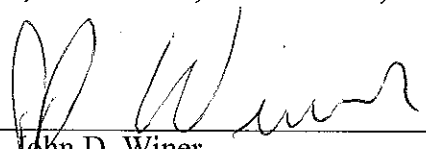
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial.

DATED: October 23, 2017

WINER, McKENNA, & BURRITT, LLP

BY: 

John D. Winer
Kelli D. Burritt
Attorneys for Plaintiff